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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,839	03/13/2002	Michael Thomas Sherwood	USA.302	4993

7590

07/16/2003

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EXAMINER

BARR, MICHAEL E

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 07/16/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/099,839

Applicant(s)

SHERWOOD ET AL.

Examiner

Michael Barr

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-15 and 24 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments and amendments, filed 6/19/2003, have been fully considered and reviewed by the examiner. In light of the drawing correction, the objection to the drawing has been withdrawn. The examiner acknowledges the addition of Claim 24. Claims 1-15 and 24 are pending.

The applicant has argued against the Fukui reference indicating that the sublimable dyes used do not permeate the object. The examiner is not persuaded by the applicant's arguments. The applicant suggests that the limitation of "permeate" requires complete infiltration of the object. However, there is no such definition or requirement of "permeate" in the claims or specification. Without such a definition, the examiner must give the limitation of "permeate" its broadest reasonable interpretation. In its broadest definition, "permeate" means to penetrate or diffuse into an article. There is no penetration depth requirement in the term "permeate". Therefore, the teaching of Fukui that the dye penetrates into the object surface reads on the claimed limitation of "permeate".

### ***Drawings***

2. The corrected or substitute drawings were received on 6/24/2003. These drawings are approved by the examiner.

*Specification*

3. The disclosure is objected to because of the following informalities: Pages 8 and 15 of the specification make reference to "Fig. 1". However, the drawing is no longer labeled as Fig. 1. The specification should amended to remove reference to "Fig. 1". The figure should be referred to as "the Figure" in the specification.

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 provides improper Markush grouping language, in step (d), which renders the claim vague and indefinite. Proper Markush group language should not be in the alternative (i.e. "or"), but instead would be worded with "and".

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukui in view of Menhennett et al.

Fukui and Menhennett et al. are applied here for the same reasons as given above and in paragraph 5 of the previous office action.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukui and Menhennett et al. as applied to claim 1 above, and further in view of Oka et al.

Fukui, Menhennett et al., and Oka et al. are applied here for the same reasons as given above and in paragraph 6 of the previous office action.

9. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukui and Menhennett et al. as applied to claim 1 above, and further in view of KR 2002012819 by Jang et al. ("Jang").

Fukui, Menhennett et al., and Jang are applied here for the same reasons as given above and in paragraph 7 of the previous office action.

***Allowable Subject Matter***

10. Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

*Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

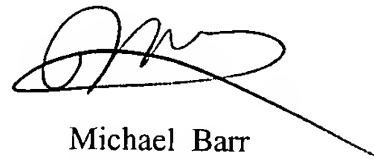
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Barr whose telephone number is 703-305-7919. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on 703-308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 or 703-305-5408 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Michael Barr  
Primary Examiner  
Art Unit 1762

MB  
July 16, 2003